EDITOR'S NOTE

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99-5260 (2)

Supreme Court, U.S.
FILED
MAY 12 1999
OFFICE OF THE CLERK

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Kerta Russell Judd — PETITIONER
(Your Name)

VS.

U.S. District Court, et al. — RESPONDENT(S)

RECEIVED
JUN 2 1999
OFFICE OF THE CLERK
SUPREME COURT, U.S.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

[X] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Supreme Court No. 98-7575. Granted free process under Criminal Justice Act in USDC WD Tx, Mid Div. No. MO-98-CR-043-F at (915) 686-4031

[ ] Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Kerta Russell Judd
(Signature)

7 pp

AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, Keith Russell Judd, am the petitioner in the above-entitled case. In support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

I further swear that the responses I have made to the questions and instructions below relating to my ability to pay the cost of proceeding in this Court are true.

1. Are you presently employed? Yes ___ No X

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

b. If the answer is no, state the date of your last employment and the amount of salary or wages per month which you received. Feb., 1994 $100.00 per week before expenses

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other sources? Yes ___ No X

a. If the answer is yes, describe each source of income and state the amount received from each during the past twelve months.

3. Do you own any cash or have a checking or savings account? Yes ___ No X

a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing) Yes ___ No X

a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state your relationship to those persons. Mildred Russell Judd, my mother
Visa Passport No. 132077459 SSN: 585-94-4625

I declare under penalty of perjury that the foregoing is true and correct.
Executed on: March 18, 1999

Keith Russell Judd
(Signature)

No. 99-5260

ORIGINAL

Supreme Court, U.S.
FILED
MAY 1 2 1999
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Keith Russell Judd — PETITIONER
(Your Name)

VS.

U.S. District Court et al, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
No. 98-51207

Keith Judd
PETITION FOR WRIT OF CERTIORARI

Keith Russell Judd
(Your Name)
Midland County Jail, P.O. Box 11387
(Address)
Midland, Texas, 79702
(City, State, Zip Code)
(915) 367-0888
(Phone Number)

99-5260
Judd

QUESTION(S) PRESENTED

1.) whether petitioners appeal can be dismissed for failure to pay docketing fee when he has timely filed his motion and affidavit to proceed in forma pauperis, and same Court has granted leave to proceed IFP in other cases, and petitioner is in jail and granted free process under the Criminal Justice Act, 18 U.S.C. § 3006A ?

In The Supreme Court of the United States

No.

Keith Russell Judd, Petitioner,
v.
U.S. District Court, et al., Respondents.

USCA 5th Cir. No. 98-51207
USDC WD Tx No. MO-98-CA-167-F
(915) 688-4001

Petition For Writ of Certiorari

Petitioner, Keith Russell Judd, Pro Se, asks that a writ of certiorari issue to review the judgment below. USCA 5th Cir. No. 98-51207

Opinions Below

The opinion For The United States Court of Appeals For The Fifth Circuit appears at Appendix A attached hereto. The opinion of the U.S. District Court appears at Appendix B, attached hereto; (MO-98-CA-167, USDC W.D. Tx., M/O Div.).

Jurisdiction

The Court of Appeals Judgment in this case was filed March 3, 1999. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

Constitutional and Statutory Provisions Involved

Equal Protection of the Laws and 28 U.S.C. § 1915

Statement of the Case

District Court dismissed this case for failure to state a claim in which relief can be granted. Petitioner asked the Court to alter or amend the order but on Dec. 21, 1998, district court denied. Petitioner filed a motion to proceed in forma pauperis but on March 3, 1999, the Court of Appeals dismissed for failure to pay the docketing fee.

Reasons For Granting The Petition

Petitioner qualifies for leave to proceed in forma pauperis and the same district court in MO-98-CR-093-F has petitioner

(11)

(over)

IN T UNITED STATES COURT OF APPE/ -
FOR THE FIFTH CIRCUIT

No. 98-51207

U.S. COURT OF APPEALS
FILED
MAR 3 1999
CHARLES R. FULBRUGE III
CLERK

KEITH JUDD

Plaintiff - Appellant

v.

UNITED STATES DISTRICT COURT; ET AL

Defendants

UNITED STATES DISTRICT COURT; CLERK, UNITED STATES DISTRICT COURT, Midland-Odessa Division

Defendants - Appellees

Appeal from the United States District Court for the Western District of Texas, Midland

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CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed for want of prosecution for failure of appellant to pay docketing fee, within the time fixed by the rules, this date, March 3, 1999.

CHARLES R. FULBRUGE III
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: Lisa Conrad, Deputy Clerk
FOR THE COURT - BY DIRECTION

DIS-2

Appendix A

FILED

DEC - 9 1998

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

KEITH RUSSELL JUDD, Plaintiff,	§	
v.	§	NO. MO-98-CA-167-H
UNITED STATES DISTRICT COURT, et al, Defendants.	§	

ORDER OF DISMISSAL

On this day came on to be considered the above-styled and numbered cause which is a civil rights action. The Court, after having reviewed the pleadings submitted by the Plaintiff, finds that the complaint fails to state a claim upon which relief can be granted and should be dismissed.

It is therefore ORDERED that the complaint be in the above-styled and numbered cause be, and it is hereby, DISMISSED for failure to state a claim upon which relief can be granted.

SIGNED AND ENTERED this 3d day of December, 1998.

HARRY LEE HUDSPETH
UNITED STATES DISTRICT JUDGE

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